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November 4, 2016

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
Los Angeles, California 90012

Dear Supervisors:

STATUS REPORT ON THE REFORM OF THE CIVIL SERVICE HEARING PROCESS

On April 26, 2016, the Board of Supervisors (hereinafter "the Board") directed the Executive Officer and the Human Resources Director, in consultation with County Counsel, to engage a consultant to review, analyze and provide specific recommendations to improve the overall County Civil Service Commission (hereinafter "CSC") hearing process including:

- 1) an evaluation of the appointment, qualifications, and training of the Civil Service Commissioners;
- 2) an evaluation of the selection, qualifications, and training of the Hearing Officers, including consideration of developing a panel or panels of subject matter expert Hearing Officers;
- 3) an evaluation of the duties, role, responsibilities, hiring, qualifications, and training of the Department advocates;
- 4) an evaluation of the advantages and disadvantages of decentralized and centralized oversight of the Department advocates within the Department of Human Resources or County Counsel; and
- 5) input and recommendations received after consulting with all appropriate stakeholder groups.

The Board also requested that the Executive Officer and County Counsel review the terms and conditions of future contracts with respect to Hearing Officers and directed that County Counsel study the feasibility of establishing a Civil Service Division and/or cases that can be maintained for in-house representation.

After legal analysis conducted by counsel, research conducted by our Departments and input from stakeholders (collected by Dr. Susan Stang, PSI), we provide the following

and attached information in anticipation of evaluating and implementing the below recommendations.

Background Regarding the Civil Service Commission Process

The Civil Service Commission is a Charter-mandated body charged with acting as the appellate body for employees when issued disciplinary actions such as, discharges, reductions, and suspensions in excess of five days. The CSC also adjudicates discrimination complaints filed by County employees. A review of major disciplinary actions issued by 29 County departments between January 1, 2014 and June 30, 2016 reflects that 984 disciplinary actions that fall within the CSC's authority were issued. As required by law, prior to the issuance of all major disciplinary actions, departments afford employees an opportunity to provide information that may reduce or resolve the disciplinary matter before finalization. Departments use these meetings with employees as an opportunity to ensure that the disciplinary action was warranted and consistent with the expectations of employment for public service. Any resolution of these matters takes into account the best interests of the public service, the workforce and, where possible, the employee.

Of the 984 major disciplinary actions issued, approximately 246 matters (or 25%) were appealed to the CSC. This figure excludes cases resolved by settlement or withdrawn by the employee prior to final disposition. Final disposition before the Commission occurs when the appealed disciplinary action is either upheld or reduced by the Commission. The data reflects that nearly 75% of major disciplinary actions taken within the 2½ year period of review were either not appealed by employees or resolved by settlement or withdrawal by the employee prior to final disposition by the Commission. It should be noted that these figures are subject to further revision based on potential resolution of pending cases prior to final action by the Commission.

Input from Stakeholders

Based on your Board's motion, stakeholders were asked to provide feedback on the Civil Service hearing process and recommendations on how it could be improved. A variety of techniques were used to gather the information including a standardized survey and individual interviews. The survey was prepared and distributed by Dr. Stang to solicit feedback on various aspects of the County's Civil Service hearing process. The survey was sent to 34 stakeholders (both internal and external to the County) who play key roles in the Commission hearing process. Of those invited to participate, 76% of the stakeholders completed the survey in its entirety. One third of the respondents were Employee Advocates (33%), another third were Outside Legal Counsel (33%), and the remaining respondents were a mix of various stakeholders from the Commission, County departments, County Counsel, and various other stakeholders including performance management unit managers, departmental advocates, managers, and others (33%).

Interviews were conducted with key stakeholders including the Commissioners, Department Heads, Commission administrative staff, and outside counsel. In total, 15 individual interviews were completed. The survey topics were presented prior to the interview to set the context, yet the interview itself was unstructured to encourage the stakeholders to offer any and all suggestions on how to improve the hearing process.

Please see the attached Executive Summary of the information collected by PSI during the feedback solicitation process.

Actions Taken And Recommendations Moving Forward

The Departments have worked diligently to meet the requests for action as outlined in the April 2016 Board motion. In reviewing the Civil Service hearing commission process, the Departments reviewed other jurisdictions' civil service processes, including: County of Orange; City and County of San Francisco; County of San Diego; County of Santa Barbara; County of Ventura; County of Kern; County of Alameda; County of Sacramento; County of Fresno; County of San Mateo; County of San Bernardino; and City of Los Angeles, in addition to taking the special needs of Los Angeles County into consideration.

To date, the following activities have been implemented:

- A new RFSQ has been prepared containing higher standards for Hearing Officers including additional experience necessary to qualify as a Hearing Officer;
- An additional criteria for specialty Hearing Officers added in the areas of Child Welfare, Health, and Public Safety, requiring additional training in those fields;
- DHR has reviewed its capacity and has determined that additional advocacy assignments can be handled; and,
- County Counsel has studied the feasibility of handling select CSC matters, and has already begun to keep some cases in-house, that would have ordinarily gone to outside counsel.

The Departments also look forward to implementing the following recommendations with respect to the Civil Service hearing process:

- Review and revise the current training curriculum for Hearing Officers, and institute an annual training and evaluation for Hearing Officers;

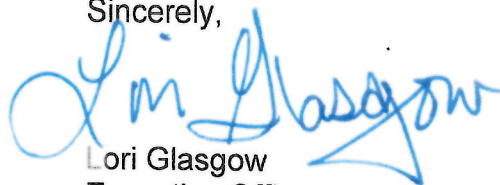
- Review and revise of the current training curriculum for Commissioners;
- Conduct regular training for Hearing Officers, Commissioners and advocates;
- Review the feasibility of referring all non-public safety cases to DHR for handling;
- Review by County Counsel of all Outside Counsel cases for possible in-house attorney handling;
- Evaluate and strengthen the function of the CSC Executive Director;
- Assess the need for additional resources, including the possibility of staff attorneys or paralegals, to evaluate matters and/or vet cases which are not jurisdictional to the CSC process.
- Review and update CSC procedural rules to reflect current practice and increase efficiency;
- Review and revise the rules governing the hearing process to clarify and ensure consistency of application and alignment;
- Evaluate and update the process for scheduling hearing dates including management of continuances; and,
- Evaluate and implement technological efficiencies in the CSC's Executive Office to assist with document management, appeal submission and hearing scheduling.

The Departments propose a phased approach to developing the necessary strategies to address the concerns and recommendations of the key stakeholders of the Civil Service hearing process, and will provide a status update to the Board in 90 days.

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It is the goal our Departments to fulfill their mission in alignment with this Board's goals to service the County workforce and to ensure that the Civil Service process works efficiently and fairly.

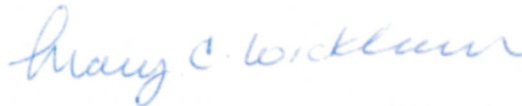
Sincerely,



Lori Glasgow
Executive Officer



Lisa M. Garrett
Director of Personnel



Mary C. Wickham
County Counsel

LG:CYT:mr

An Executive Summary of the Review and Evaluation of the LA County Civil Service Hearing Process: Stakeholders' Perspectives

The goal of the project was to review and evaluate the Civil Service hearing process from the perspective of its stakeholders, and to obtain recommendations on ways it could be improved. The stakeholders were identified by the County and included administrative staff, Hearing Officers, Commissioners, Advocates, County Counsel, and outside counsel. A variety of techniques were used to gather the information including a standardized survey, interviews, and benchmarking data. The participants and the findings are summarized according to the data collection technique: (1) survey, (2) interview, and (3) benchmarking. A brief overview of key conclusions and recommendations then follow.

The Feedback Survey

A feedback survey was sent to 34 stakeholders internal and external to the County that play a key role in the Civil Service Hearing Process. 76% of the invited stakeholders completed the survey in its entirety during the 10-day window in which feedback was solicited (for a total of 26 useable surveys). An additional 4 surveys were started, but not completed. Considering all 30 surveys started and/or completed, one third of the respondents were Employee Advocates (33%), another third were Outside Legal Counsel (33%), and the remaining respondents were a mix of various stakeholders.

Overall

Key findings about the process itself include:

- 63% of respondents are satisfied with the process,
- 55% believe it is fair, and
- 66% do not find it to be overly complicated.

Most notably, just under half of the respondents cited they tend to agree with the decision of the Commission (45%), while more than a third indicated they do not (38%).

Timing

With regard to the timing of the process, most respondents agreed the time to petition for a hearing or appeal is sufficient (79%), but only 32% think the time required to complete the process is reasonable.

Qualifications of Commissioners, Hearing Officers, and Advocates

- For those involved in the process, there was high agreement that the different types of representatives of the process were knowledgeable (68-86% agreement, depending on role), and effective (61-82% agreement).
- Respondents generally agreed that it would benefit all representatives to have relevant experience (71-82% agreement, depending on the role).

- There was strong endorsement for providing regular training to Department Advocates (73%) and Commissioners (64%), however, there was less support for training Hearing Officers (43% agreement).
- Periodic performance reviews were also highly endorsed for Commissioners (57%) and Hearing Officers (61%).
- Suggestions varied regarding the specific minimum qualifications required for each type of representative and the topics to include in recurring training for each type of representative, however, multiple respondents indicated knowledge of Civil Service rules and procedures and basic rules of evidence as critical knowledge areas that need greater emphasis.

Narrative Comments

Open-ended feedback was mixed, but themes emerged around a few strengths and areas of opportunities. Namely, the impartiality, professionalism, and accessibility of the representatives of the process were cited as strengths. The opportunities cited most often by respondents were: (1) to increase collaboration when scheduling hearing dates and (2) to technologically enable the process for document archive and efficiency.

Interviews

Interviews were conducted with key stakeholders including all five Commissioners, administrative staff, a representative sampling of Department Heads (DHs), and outside counsel (who requested an interview before and as a supplement to completing the survey). The interviews were free form, although the themes of the survey were first provided as general context. Each key stakeholder, and each perspective, had unique insights to offer, but certain topics and suggestions were more common than others. Some of the more common themes follow:

- The hearing process takes far too long to reach resolution. Whether fact or fiction, the perception is that hearings are continually delayed, far too many continuances are granted, and scheduling is neither efficient nor effective.
- Formal training should be offered to Commissioners, Hearing Officers, and Department Advocates, including an orientation to the hearing process and protocol, and a review of Civil Service rules and regulations, administrative law, and basic rules of evidence.
- Standards should be developed both for hiring/appointment and for ongoing performance. The important and prerequisite competencies for success should be defined and used in selection and performance review.
- A process should be developed to ensure that all recognize and appreciate the consequences of reducing penalties and/or reversing terminations. In some cases, (and for some departments such as Sheriff, Probation, Fire, and DCFS), decisions should not be made without also considering the impact on the constituents and the public. Health, safety, and welfare must remain paramount.

- The role of the Commission should be clearly defined, and then used to audit/modify structure, policy, staffing, and process.
- Civil Service rules and regulations should be audited for continued relevance, and updated as necessary.

Benchmarking

Pay rate undoubtedly impacts the quality of candidates who apply for Commission roles and jobs, with competitive pay being a necessary condition to attract (and retain) the best. To determine if current pay rates, particularly for Commissioners and Hearing Officers, are reasonable, salaries and wages for similar roles in other agencies were identified and compiled. The range for Hearing Officers was wide (from \$12.50 an hour to \$ 200 an hour), with an average of \$51.93 for Hearing Officers from other cities. Given the breadth of the range, it is likely that the qualifications and/or responsibilities of the benchmark roles are significantly different from one another, and that many are significantly different from the roles in LA County. As a result, pay ranges for similar roles in the County were also compiled, and may serve as the more appropriate benchmark. For these roles, the average pay was \$63.50. The accuracy of this as a benchmark is, however, dependent upon the extent to which the roles are the same across the Commissions.

Little information was available about the pay rate to Commissioners outside of Los Angeles County, however, the pay for Commissioners from 10 other Los Angeles County Commissions was reviewed and summarized. The pay rate for these Commissioners ranged from \$25 per session to \$200 per session, with an average rate of \$65 per session.

Summary of Conclusions and Findings

There are several key findings that are common and core across perspective and orientation. A brief summary of these recommendations follow.

- The time taken to hear and resolve cases needs to be considerably shorter. The perception is that hearings that should take months instead take years. If true, the impact of the delay is significant and detrimental. Employees spend months waiting for resolution. Departments incur costs to budget and morale, and evidence deteriorates or disappears as witnesses forget or move on.
- Training should be offered to Commissioners, Hearing Officers, and Department Advocates on a regular basis. The training, at a minimum, should include Civil Service rules and policies, Commission procedural rules, the Civil Service hearing process, administrative law, rules of evidence, and standards of proof. For Hearing Officers, the suggested training also included report writing.
- Standards for hiring and performance should be put in place to ensure that those serving in the roles of Commissioner, Hearing Officer, and Department/DHR Advocate have the competencies required for success, and consistently meet performance standards and expectations.
- Civil Service Commission Rules should be audited and updated to reflect current practice.

- The rules governing the hearing process and the steps in the process should either be clarified or enforced to ensure consistency and alignment across time, situations, cases, and representatives.
- The Commission would be more efficient and effective if provided top quality support and access to the kind of expertise needed. The focus of the Commission staff currently appears to be on meeting administrative processing requirements (i.e., moving the file through the system) instead of providing support to the Commissioners.
- Finally, although not specifically stated, the purpose of the Commission does not appear to be clear to all stakeholders, nor are the boundaries, scope, and key responsibilities of the roles of Hearing Officer, Advocate, and/or Commissioner. Sharing information about the purpose, function, and role of the Civil Service hearing process should help to correct misconceptions and misunderstandings, and to align expectations.

Additional details are given in the full report, as are suggested initial steps for implementation.